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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,153	10/27/2003	Eric Edward Lennon	KCX-1359 (18231)	3016

7590 01/18/2008
Mr. Stephen E. Bondura
Dority & Manning, P.A.
P.O. Box 1449
Greenville, SC 29602

EXAMINER

BUTLER, PATRICK NEAL

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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01/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/694,153	Applicant(s) LENNON ET AL.	
	Examiner Patrick Butler	Art Unit 1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-5, 11, 13-16 and 23.

Claim(s) withdrawn from consideration: 6-10 and 17-22.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the enclosed response.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejection of Claims 11 and 13-16 under 35 U.S.C. 112, second paragraph.

Response to Arguments

Applicant's arguments filed 07 January 2008 have been fully considered but they are not persuasive.

Applicant argues with respect to the 35 USC § 112, second paragraph, rejections. Applicant's arguments appear to be on the grounds that:

1) Since the wherein clause of originally filed Claim 23 has been incorporated into the Specification in Applicant's Amendment dated 07 January 2008 and since Claim 23's current language does not differ substantively from the original Claim 23, current Claim 23 is supported by the originally filed written description.

Applicant argues with respect to the 35 USC § 103(a) rejections. Applicant's arguments appear to be on the grounds that:

2) Kisler's method and apparatus are not able to be incorporated with the primary reference of the various rejections because the charge application is made to a finished web rather than separate fibers.

3) Haynes '379 does not provide a teaching of how to provide a vortex generator.

4) With respect to Claim 23, Maggio '134 does not provide for having the electrostatic discharge unit in the drawing slot.

5) Davis's language regarding nozzle location is misleading; thus, Figure 1 is relied upon for proper positioning of the nozzle.

The Applicant's arguments are addressed as follows:

1) It is the substantial difference between the instant Claim 23 and the originally filed Claim 23 that is not supported by Applicant's originally filed written description. As recited in the Office Action dated 06 September 2007:

With respect to Claim 23, the claim requires the force of attenuation to be provided by "air consisting of attenuation air only entering... from the drawing slot sidewall." The Examiner interprets this to mean that no other air may contribute to the attenuation force. This is more than with the Specification's acknowledgement of air entering from a specific sidewall because the Specification does not preclude air from the other sidewall as the claim does; the Specification only requires a specific wall to provide air.

2) As recited in the Office Action dated 06 September 2007:

In response to applicant's argument that Kisler is drawn to webs not fibers, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Therefore, Kisler is relevant and provides appropriate teachings since Kisler is also within the field of providing charge to materials and desires to provide a uniform charge across an area desired to be charged.

3) Haynes '379 is relied upon to teach a vortex generator principally because its apparatus within the airflow is taught to generate vortices (see col. 5, lines 48-51).

4) The air is provided above the diverging walls in Maggio '134, and the slowing occurs between the diverging walls (see col. 5, lines 44-48). Thus, the slot of fast-moving air above the diverging walls would continue to pull the filaments. Thus, Maggio's providing of air necessarily occurs within a drawing slot.

5) Absent evidence of record to the contrary, Davis is relied upon for all of its teachings. The arguments of counsel cannot take the place of evidence in the record.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

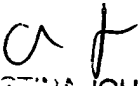
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Art Unit 1791


CHRISTINA JOHNSON
SUPERVISOR, PATENT EXAMINER